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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/981,230	10/17/2001	Steven B. McGowan	INTL-0625-US (P11956)	5567

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EXAMINER

EISEN, ALEXANDER

ART UNIT	PAPER NUMBER
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2674

DATE MAILED: 04/09/2004

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Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/981,230

Applicant(s)

MCGOWAN, STEVEN B.

Examiner

Alexander Eisen

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 26 January 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-23 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-23 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sisselman, US 2003/0007079 A1 in view of Kawamura et al., (hereinafter Kawamura), US 5,153,569 (both references are references of record).

With respect to claims 1 and 25, Sisselman discloses a personal hand-held viewing device (FIG. 5) comprising an optics element (lens 310) to facilitate viewing; an image sensor to capture frames (as part of image signal processor 320, see paragraph [0029]); a storage (RAM 370) to store sequence of frames of predetermined duration (see paragraph [0032]), whereas the storage is coupled to said sensor; a display (380) coupled to said storage to display the sequence of frames; and a controller (microprocessor 350) to automatically store successive sequence of frames of predetermined duration including an earlier and later sequences, earlier and later sequences can be seen as a first loop and a second loop; said controller storing the later sequence of frames in the storage and automatically overwriting an earlier sequence and play back either said first loop in response to a user input or a second loop ([0037], FIGS. 6 and steps 620-640 in flow-chart diagram in FIG.8; also paragraphs [0033 – 0036]).

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Sisselman does not disclose an optic element to enable the user to selectively view a scene or the display through the optic element.

Kawamura teaches a personal viewing device (FIGS. 10-11) capable of delivering real scene or recorded image displayed on a display to a user, and having an optic element (shutter) for selectively view a scene or the display (FIG. 4; col. 3, line 47 - col. 4, line 17).

It would have been obvious to one of ordinary skill in the art at the time when the invention was made to modify the viewing device of Sisselman with optical arrangement of Kawamura, because it would improve the former with the ability to switch between viewing a real scene or pre-recorded images from the display at user's discretion without the viewer's need to take off the viewing device (Kawamura; col. 7, lines 19-28).

In regard to claim 2, Sisselman further teaches that the device controller loops back to a first sequence and overwrites the first sequence of frames with a second sequence of frames and with a third or fourth sequence after that (see paragraph [0033] and FIG. 6).

As to claims 3 and 4, Sisselman also teaches that the storage has the capacity to store an integral number of sequences of frames of predetermined duration, (one in an exemplary embodiment consisting of twenty memory segments with 3 second duration each; see paragraph [0032]).

With regard to claims 5 - 7, the device of Sisselman is a camera with a magnifying (zoom) feature, and as such is effectively a camera, telescope or microscope when the functions it is capable of performing are taken into consideration.

As to claim 8, Sisselman teaches a digital record and replay binoculars.

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As to claim 9, Kawamura teaches a beamsplitter (2) arranged to pass light from the scene (through the shutter 3) or from the display (7).

As to claims 10 and 25, Kawamura teaches the shutter (3) to control viewing access to the optic element (beamsplitter 2).

As to claim 11, Kawamura further teaches that the device selectively enables a user to view the display or a scene through the optic element.

As to claim 12, the only viewing means that the device of Sisselman has is the display (120), which is built-in into housing (110) (see FIGS. 1-4; paragraph [0025]).

As to claim 13, the controller enables a user to select when to display a sequence of frames of predetermined duration (see relevant function of replay button 190 in paragraphs [0028] and [0031]).

With respect to claim 14, Sisselman teaches the device corresponding method, wherein a sequence of frames of predetermined duration is recorded and consequently is overwritten by a following sequence of frames, and in response to a user selection allows to the user to view a recorded sequence of frames (see related citations regarding claim 1). Kawamura teaches enabling a user to selectively (by switching LCD shutter 3 and controlling display driving circuitry) view recorded images or an actual scene through the same viewing port.

As to claim 15, Sisselman further teaches that the aforementioned method includes storing a first sequence and then looping back to the beginning of the first sequence and overwriting the first sequence with a second sequence of frames (see also discussion related to claim 2).

In regard to claim 16, the method involves an integral number of sequences of frames of predetermined duration.

As to claims 17 and 18, Sisselman further teaches that the method enabling a user to select to view either real time scene or recorded sequence of frames by choosing a playback mode (paragraph [0028]).

As to claim 19, Sisselman teaches a processor-based system for implementing a method of recording, overwriting and selectively viewing a recorded sequence of frames. While Sisselman does not explicitly teach that the processor includes a medium for storing instructions that enables it to execute the aforementioned method, it is notoriously known that the processor-based systems inherently have a medium for storing instruction that are being executed by the processor in order to make the processor-based system viable (see, for example a flow-chart in FIG. 8 reflecting a program executed by the processor). Kawamura teaches viewing the recorded images or a real scene using the same viewing port.

As to claim 20, see discussion related to claims 2 and 15.

As to claim 21, see discussion related to claim 3 and 16.

As to claims 22 and 23, see rejection related to claims 13, 17 and 18.

Response to Arguments

3. Applicant's arguments have been considered but are not persuasive. Applicant argues that only one loop is provided in Sisselman reference, wherein three different sections of a loop can be called back for replay, while the invention may provide separate loops that can be separately played back. Examiner respectfully disagrees. Three different sections can be compared to different loops, each carrying sequence of frames, a first one A, second one B and a third one C.

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On the other hand it would not be a burden to those of ordinary skill in the art at the time when the invention was made to have any number of recorded clips or other programs for replaying and thus have a plurality of frame loops.

Conclusion

4. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Engle et al., US 5,953,487.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alexander Eisen whose telephone number is (703) 306-2988. The examiner can normally be reached on M-F (8:30-4:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard A. Hjerpe can be reached on (703) 305-4709.

Any response to this action should be **mailed to:**

Commissioner of Patents and Trademarks

Washington, D.C. 20231

or **faxed to:**

(703) 872-9306 (for Technology Center 2600 only).

Hand-delivered responses should be **brought to:** Crystal Park Two, 2121 Crystal Drive, Arlington, Virginia, Sixth Floor Receptionist.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be **directed to:** Technology Center 2600 Customer Service Office, whose telephone number is (703) 306-0377.

A handwritten signature in black ink, appearing to read "Alex Eisen". The signature is fluid and cursive, with the first name "Alex" and the last name "Eisen" clearly distinguishable.

Alexander Eisen
March 28, 2004